

US Patent Application 09/930,422

Remark:

The office action dated 08/18/2006 is exactly identical to that of 01/23/2006 except the following areas:

1. Notification of an error of referenced provisional patent application number;
2. Ground of rejection of claim 1 is provided;
3. Use of compression/decompression of data is referenced to Runton et al.

Other than the above, the office action dated 08/18/2006 did not provide any answer to the questions and argument submitted applicant's response dated 05/17/2006.

The error of the provisional patent application number is noted. The correct provisional patent application number is now corrected as indicated in the amendment of specification.

The latest office action quoted prior art Runton et al. as a reference to support the use of compression/decompression of data to support independent claim 40. Accordingly claim 40 is now rejected under 35 U.S.C. 103(a) Spackova et al. in view of Runton. However, the office failed to notify the application what is Runton. Is it a USA patent? Is it a foreign patent? Or is it a published article? 37 CFR 1.104 (b) requires each office action to be complete in order for the applicant to fully understand each ground of rejection, so as to provide a proper response. The applicant respectfully requests the examiner to provide clear information of the following unclear ground of rejections:

(A) Premature office action:

The office action dated 08/18/2006 is premature due to lack of adequate information provided for the applicant to understand the following grounds of rejections:

1. 37 CFR 1.104 (b) requires patent number to be provided if a supporting reference is a USA patent. If not, then a copy of the reference is to be provided. The applicant cannot find the patent number of Runton in the latest office action, nor copy of the reference Runton, nor any updated Notice of Reference Cited which provides the number of Runton. Lacking of this critical information (other than just a name Runton) prohibited the applicant to compare the teaching of Runton when it is combined with Spackova for establishing the ground of rejection of claim 40 under 35 U.S.C. 103(a).

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Accordingly the next office action is respectfully requested not to be set final, and to provide the reference number of Runton, so as to give the applicant a chance to properly study this ground of rejection.

2. Claim 40 was rejected under 35 U.S.C. 103(a) as unpatentable over Spackova et al. In view of Powell. Page 3 second paragraph of the office action set forth the reasoning disclosed by Speckova. However, the office action merely mentioned that Powell mentioned n1 and n2 missing in the disclosure of Spackova to support this ground of rejection. It was argued in applicant's last response that claim 40 did not reference to the features n1 and n2 as indicated by the last two office actions. It means how claim 40 was rejected under 35 U.S.C. 103(a) as unpatentable over Spackova et al. in view of Powell remains unclear. Since the latest office did not response to this question asked in applicant's latest response, the ground of rejection of claim 40 is therefore remain unclear. Accordingly the next office action is respectfully requested to clearly explain how Powell read on each characteristics of claim 40 to support the rejection over Spackova et al. in view of Powell. The next office action is also requested not to be set final in order to give the applicant a chance to properly understand the ground of rejection of claim 40 mentioned above, so as to provide a proper response.
3. In the last two office actions, claims 6-12, 15-18, 49 were rejected as n1 and n2 are not patentable feature. Applicant's last response asked that if the key characteristics of a claim is considered to be not patentable features, the subject claims 6-12, 15-18 and 49 should b rejected under 35 U.S.C. 101 and NOT 35 U.S.C. 103(a). If characteristics of a claim is rejected as they are non patentable features, proper reasoning under the guide line of MPEP related to 35 U.S.C. 101 are respectfully requested to be provided. If these claims are to be rejected under 35 U.S.C. 103(a), cited supporting references to prove that these characteristics to be obvious are required under 37 CFR 1.104 (b). 35 U.S.C. 101 (for unpatentable features) and 35 U.S.C. 103(a) (for obvious variation of cited prior art) are completely different grounds of rejection. Clarification of the proper ground of rejection – 35 U.S.C. 101 or 35 U.S.C. 103(a) is therefore respectfully requested in the next office action, which should also NOT be set final until the confusion in the ground of rejection is clarified.

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In summary, the applicant respectfully requested in next office action to provide clear "claim by claim" and "characteristic by characteristic" reasoning supporting each ground of rejection for each claim.

(B) Response to applicant's argument:

The office action dated 08/18/2006 did not answer to applicant's argument submitted in the response dated 05/17/2006. Proper answer or comment to each arguments submitted in the response dated 05/17/2006 is respectfully requested.

(C) Rejection of claim 1

Claim 1 which depends on claim 40 recited further steps of:

*defining n available sizes of a garment by a size chart;
processing said BP code to determine one of the n sizes of said garment
to become a recommended size for fitting said human body.*

The office action quoted Spackova col 4, lines 22-25 as reference that disclosed the additional steps recited in claim 1 above. Listed below is the recitation of Spackova col. 4, lines 22-25 as quoted by the office action:

The computer 80 additionally retrieves matching graphic descriptions 85' and 86' (FIG. 3) for a selected article design, corresponding to the specifications 85 and 86 (of FIG. 3).

This recitation of Spackova precisely refers to graphic image 85' and 86' of FIG. 3. These images as described by Spackova are for selection of article design. Obviously this recitation does not disclose the step of defining n available sizes of a garment by a size chart as claimed in claim 1. It is also obvious that this quotation of Spackova explicitly describes about article design, and not about processing a BP code to determine one of the n defined sizes for fitting a human body. The differences between col 4, lines 22-25 of Spackova quoted by the office action and the further steps recited in claim 1 are so obvious and wide apart for any person having ordinary knowledge in the art. Further clarification how each characteristic of claim1 is read on the quoted reference is respectfully requested if the ground of rejection is to be withheld.

(End of remark)